IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1956

No. 522

JANET R. PARKER,

Petitioner,

v.

CATHERINE R. HOWELL, CATHERINE S. CRESS, and CHARLES RICHARD SCHNEIDER,

Respondents.

In The Matter of the Estate of Gertrude Louise Richards, Deceased, Walker Bank and Trust Company, Executor.

BRIEF OF RESPONDENTS

THE COURT IS WITHOUT JURISDICTION TO REVIEW THE JUDGMENT

28 U. S. C. § 1254(1) invoked by Petitioner does not purport to confer any jurisdiction to review a judgment of

a state court. Assuming Petitioner intended to invoke 28 U. S. C. § 1257(3), this court is without jurisdiction to review the judgment of the Supreme Court of Utah for the reason that no federal question is involved or has been decided by the State Court. No treaty or statute of the United States was drawn in question, nor was any state statute attacked upon any ground. At no stage of the proceedings did Petitioner assert that she had been denied any title, right, privilege or immunity guaranteed by the Constitution of the United States or by any federal statute. Each and every issue raised or decided in the State Courts involved only local law and procedure.[1]

The record discloses no more than a simple will contest involving the testamentary capacity of the testatrix five days before her death. The issue was submitted to a jury whose verdict has been approved by the trial judge and the unanimous decision of the Supreme Court.

Petitioner's assertion that the evidence was insufficient to support the verdict, and that the jury was inadequately instructed upon the burden of proof would not, even if supported by the record, which they were not, present anything more than matters of local procedure and law. Constitutional rights and federal questions which this court has jurisdiction to review are not raised by mere allegations in a petition for a writ of certiorari.[2]

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[1] *Brinkerhoff-Faris Trust & Savings Co.* v. *Hill*, 281 U. S. 673, 50 S. Ct. 451, 74 L. Ed. 1107; *Fox Film Corporation* v. *Muller*, 296 U. S. 207, 56 S. Ct. 183, 80 L. Ed. 158.

[2] *Citizens Savings Bank of Owensboro* v. *Owensboro*, 173 U. S. 636, 19 S. Ct. 530, 43 L. Ed. 840.

No right of Petitioner under the Civil Rights Act (42 U. S. C. § 1982) was asserted or denied in either of the State Courts. That statute is directed against governmental action which discriminates between citizens of the United States on account of race or color.[3]

Petitioner did not assert any right of inheritance and none was denied. She claimed all of the estate of her deceased sister under a will and an alleged codicil. The will gave Petitioner more than she would have inherited under the laws of Utah. This share of the estate she received. She claimed all of the estate under the codicil which was declared to be invalid. She was accorded the same process of law as is accorded to every citizen called upon to defend a lawsuit in the Utah courts.[4]

We respectfully submit that the petition should be denied.

GRANT H. BAGLEY,
Attorney for Respondents,
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Salt Lake City, Utah.

Of Counsel:

DENNIS McCARTHY,
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November, 1956.

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[3]*Hurd* v. *Hodge*, 334 U. S. 24, 68 S. Ct. 847, 92 L. Ed. 1187.
[4]*Moffett* v. *Commerce Trust Company*, CCA Mo. 1951, 187 F. 2d 242, Cert. Denied 72 S. Ct. 32, 342 U. S. 818, 96 L. Ed. 618, Rehearing Denied 72 S. Ct. 163, 342 U. S. 879, 96 L. Ed. 661.